IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 2817 of 2007(I)

PETITIONER:

M/S.ANANTHAPURI HOSPITAL AND RESEARCH INSTITUTE, CHAKKAI, THIRUVANANTHAPURAM, REPRESENTED BY ITS DIRECTOR, A GOPAL, AGED 49 YEARS, S/O.ANANTHANARAYANA PILLAI.

BY ADV. SRI.C.S.MANU.

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT OF KERALA, DEPARTMENT OF TAXES, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE SALES TAX INSPECTOR, COMMERCIAL TAXES CHECK POST, AMARAVILA.**

BY SR. GOVT. PLEADER SRI. MOHAMMED RAFIQ.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/02/2007, ALONG WITH O.P. NO. 10134/2003 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.2817/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE NOTICE BEARING NO. ET.3722/06-07 DTD. 24/11/06 ISSUED BY THE R.2. TO THE PETITIONER.

EXT.P.2: COPY OF THE RECEIPT BEARING NO. TXTA 70649 DTD. 25/11/06 ISSUED BY THE R.2. ON RECEIVING THE AMOUNT OF RS.36,120/-.

EXT.P.3: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE R.2. ON 18/01/07.

//TRUE COPY//

prv.

THOTTATHIL.B.RADHAKRISHNAN, J.

W.P(c)No.2817 OF 2008

Dated this the 24th day of January, 2008

JUDGMENT

Having regard to the directions being issued hereunder, notices to respondents are dispensed with preserving their right to apply for review of this judgment, if aggrieved.

2. Petitioner's husband Sri.Sasidharan is shown to have availed a facility from the first respondent, leading to the issuance of impugned Ext.P5 whereby the property standing in his name is put to sale as per that notice dated 24/12/2007. According to the petitioner, that premises is her matrimonial home and her husband Sasidharan has deserted her and two children. She pleads that she and her children would be thrown out to the streets, if the impugned sale takes place.

3. At the time of consideration of the case today, faced with the situation that there is no legal infirmity or jurisdictional error in the impugned proceedings, learned counsel for the petitioner highlighted the facts stated above and requested that his party may be given an opportunity to wipe off the entire

outstandings and save the property from sale to ensure that she and her children have the home.

Having regard to the peculiar facts and circumstances, this writ petition is disposed of directing that if the amounts covered by Ext.P1 is paid in eight equal monthly instalments payable on or before the 15th of every month commencing from February 2008, the impugned sale shall be withheld and the petitioner will be permitted to wipe off the entire outstandings including all accruals and save the property from sale. If there is default in remitting any of the instalments, the benefit of this judgment shall stand recalled automatically and respondents would be at liberty to proceed without further notice. If the remittances are received from the petitioner, the respondents shall issue receipts clearly disclosing that remittances have been made by the petitioner. It is further directed that if the petitioner moves before the first respondent for any ameliorative relief regarding interest etc. that would also be taken note of and any measure available may be extended.

THOTTATHIL.B.RADHAKRISHNAN
JUDGE

sv.